

ALCOHOLIC BEVERAGES DIVISION[185]

Notice of Intended Action

**Proposing rule making related to Iowa Code reference changes
and providing an opportunity for public comment**

The Alcoholic Beverages Division hereby proposes to amend Chapter 9, “Personal Importation of Alcoholic Liquor, Wine, and Beer,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 123.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 123.10.

Purpose and Summary

The proposed amendments will make nonsubstantive changes to Chapter 9 due to the enactment of 2019 Iowa Acts, Senate File 618. The proposed amendments remove references to 2018 Iowa Acts, Senate File 2347, and insert references to the applicable Iowa Code sections. The proposed amendments also update the chapter’s statutory implementation references.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Granting or denying a request for the issuance of a waiver pursuant to Chapter 9 is final agency action under Iowa Code chapter 17A. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on August 4, 2020. Comments should be directed to:

Tyler Ackerson
Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road
Ankeny, Iowa 50021
Email: ackerson@iowaabd.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 185—9.1(123) as follows:

185—9.1(123) Tax liability. The division makes no judgment or decision regarding any tax liability resulting from the personal importation of alcoholic liquor, wine, or beer as provided in Iowa Code section 123.10, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 1; Iowa Code section 123.22, as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~ 123.122, as applicable.

ITEM 2. Amend rule 185—9.2(123), introductory paragraph, as follows:

185—9.2(123) Personal importation in excess of the amounts provided—waiver. The administrator may provide for the issuance of a waiver for an individual of legal age desiring to import alcoholic liquor, wine, or beer in excess of the amounts provided in Iowa Code section 123.22, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~ 123.122. The decision on whether the circumstances justify the issuance of a waiver shall be made at the discretion of the administrator upon consideration of all the relevant factors.

ITEM 3. Amend subrule 9.2(3) as follows:

9.2(3) Request. All requests for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~, 123.122 shall be submitted in writing by completing a request for import authorization form and returning it to the division, as instructed.

ITEM 4. Amend subrule 9.2(9) as follows:

9.2(9) Ruling. A letter granting or denying a request for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~, 123.122 shall be in writing and shall contain a description of the precise scope and duration of the waiver if one is issued.

ITEM 5. Amend subrule 9.2(13) as follows:

9.2(13) Violations. Violation of a condition in a waiver is equivalent to a violation of Iowa Code section 123.10, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 1; Iowa Code section 123.22, as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~, 123.122, as applicable. The recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the applicable Iowa Code ~~or Iowa Acts~~ section.

ITEM 6. Amend ~~185~~**Chapter 9**, implementation sentence, as follows:

These rules are intended to implement ~~2018 Iowa Acts, Senate File 2347, section 4, and Iowa Code~~
sections 123.10, 123.22, 123.59, 123.122, and 123.171 ~~as amended by 2018 Iowa Acts, Senate File 2347.~~